IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 381 OF 2000

Mr. Pandurangrao Laxmanrao Dhongade,
Librarian, Goa Medical College,
Bambolim, Ilhas, Goa. ..... Petitioner.

V/s.

1. The State of Goa,
Through the Secretary(Health),
Government of Goa, Secretariat,
Panaji.

2. The Dean
Goa Medical College & Hospital,
Bambolim, Ilhas, Goa.

3. Goa University,
Through its Registrar,
Bambolim Plateau,
Ilhas, Goa. ..... Respondents.

Mr. S.D. Lotlikar, Senior Advocate with Ms.Shambhavi Dessai, Advocate for the petitioner.

Mr. S.S. Kantak, Advocate General for respondent Nos.1 & 2.

Mrs. A.A. Agni, Advocate for respondent No.3.

CORAM: A.P. LAVANDE &
N.A. BRITTO, JJ.

Date of reserving the Judgment:
1st March, 2005.

Date of Pronouncing the Judgment:
7th March, 2005.

J U D G M E N T : (Per LAVANDE, J.)

By this petition the petitioner, interalia, seeks a declaration that Rule 3 of the Goa State Civil Services(Retirement) Rules 2000 in so far as it purports to reduce the age of superannuation of the petitioner from 60 to 58 years is null and void being violative of Article 14 of the Constitution of India and as such liable to be strike down or at least read down not to be applicable to librarian working in Goa Medical College.

2. The petitioner was appointed Librarian in Goa Medical College with effect from 31.8.1974. According to the petitioner in terms of the rule applicable to him he ought to retire at the age of 60. In the year 2000, the Government of Goa enacted rules known as Goa State Civil Services (Retirement) Rules 2000 (hereinafter referred to as 'The Rules'). The said rules were published in extraordinary Gazette dated 30.8.2000 . In terms of Rule 3 every Government servant including Workman/Artisan shall retire from service on the afternoon of the last day of the month in which he attains the age of 58 years; however a Government servant whose date of birth is the first of a month shall retire from the service on the afternoon of that last day of the preceding month on attaining the age of 58 years.

3. During the pendency of the petition the Government of Goa

obtained ex-post facto approval of the Central Government for reducing the age of retirement from 60 to 58 years in terms of Section 60(6) of the Goa, Daman and Diu Re-organisation Act, 1987. In the present petition Shri J.S. Monteiro, Joint Secretary(Health), Government of Goa has filed affidavit dated 7.9.2004 and in paragraph 4 he has stated as under:

> "I state that this Hon'ble Court in its common Judgment dated 01/04/2004, passed in Writ Petition No.110, 130, 420 to 424 of 2000, 31, 78, 96, 335, 362 and 228 of 2001, has accepted the statement made on behalf of the Respondents in an affidavit dated 16th March, 2004, filed by Shri S.V. Naik, Joint Secretary (Personnel), Government of Goa, wherein it was stated that the Government after Cabinet decision had placed the Goa Civil Services (Retirement) Rules, 2000, before the Central Government and the Central Government by its letter, dated 30th July, 2001, has granted ex-post facto approval to the said Rules under proviso to Section 60(6) of the Goa, Daman and Diu Re-Organization Act, 1987, for altering the age of retirement from 60 to58 years. I state that in the said affidavit it was further stated that without prejudice to the rights and contentions of the Government, the Government has taken a decision to consider granting pay and allowance tot the Petitioners and the persons of similarly situated, till date preceding the day of approval of Central Government to the said Rules."

4. Paragraph 5 of the affidavit filed by Shri J.S. Monteiro reads as under:

> “I state that the Petitioner's case, is also covered by said Judgment of this Hon'ble Court. I state that the Petitioner will be entitled to pay and allowance only, till the date preceding the day of approval of the Central Government to Goa Civil Services (Retirement) Rules, 2000.”

5. Mr. Kantak, the learned Advocate General appearing for the respondent nos.1 and 2 submitted that in view of the decision taken by the Government the petitioner shall be given pay and allowances till date preceding the day of approval of Central Government to the said rules . In view of the statement made by the learned Advocate General Mr. Lotlikar, learned Counsel submitted that that if the petitioner is given pay and allowances till the day preceding the day of approval of Central Government i.e. 30.7.2001 the petitioner would not press for other reliefs.

6. This Court while disposing of a number of Writ Petitions bearing Nos.110/2000 to 120/2000 has given similar reliefs to the petitioners as submitted by learned Advocate General.

7. In view of the above, we accept the statement made by the learned Advocate General on behalf of respondent nos.1 & 2 and direct the Government to grant pay and allowances to the petitioner till the date preceding the day of approval of the Central Government to the Goa

State Civil Services (Retirement) Rules, 2000. Rule is, therefore, made absolute in aforesaid terms with no order as to costs.

A.P. LAVANDE, J.

N.A. BRITTO, J.

vpf.